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December 7, 2005

Division of Dockets Management
5630 Fishers Lane
Room 1061
Rockville, MD 20852

RE: **Docket No. 1976N-0052G**
RIN 0910-AF33
Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Proposed Amendment of the Tentative Final Monograph for Combination Drug Products

Dear Sir or Madam:

Dickey Consumer Products, Inc, dba DMD Pharmaceuticals (DMD) hereby respectfully submits comments in response to the Food and Drug Administration's (FDA) proposed amendment of the Tentative Final Monograph for Combination Drug Products, published in the Federal Register on July 13, 2005 (70 FR 40232) to remove the combination of a bronchodilator and an expectorant and to reclassify this combination as not generally safe and effective for over-the-counter (OTC) use.

DMD markets Ephedrine Plus and EPHED Plus, OTC drugs containing the combination of ephedrine and guaifenesin, in both tablet and liquid soft gel dosage forms for the treatment of asthma, along with other OTC pharmaceuticals. All of DMD's ephedrine combination products would be materially affected by the proposed amendment. These products, which DMD markets exclusively for the treatment of asthma and to help loosen phlegm (mucus), are widely distributed throughout the United States and are frequently sold in small retail outlets that do not have pharmacies. We note that small retailers are often favorably located and may be the only stores that keep extended business hours in order to provide necessary products to the community in which they serve.

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In our opinion, based upon the current legislative and regulatory restrictions regarding the sale of single ingredient ephedrine, this rulemaking would have the effect of severely limiting the ability of asthma sufferers to quickly find and treat their symptoms of mild asthma with an OTC bronchodilator. In many states, single ingredient ephedrine is only available by prescription and pharmacies are not always located in every community. The effects of this rulemaking would pose a particular hardship on the uninsured and impoverished living in rural America who may not have immediate access to doctors or pharmacies or may not be able to afford the cost of such doctor visits and prescription drugs. This rulemaking would also affect the public's ability to make their own healthcare decisions, particularly in instances where mild asthma and seasonal allergy-induced asthma could be effectively treated by an OTC product.

DMD is a member of the American Council on Regulatory Compliance (ACRC), a non-profit trade association of small to midsize businesses that engage in the manufacture, distribution, and sales of OTC pharmaceuticals. ACRC board membership has agreed to submit comments to the FDA proposal and such are forthcoming prior to the extended deadline of December 9, 2005.

DMD refers to comments submitted to the FDA docket by Wyeth Consumer Health Care (November 7, 2005) which identify multiple recent and ongoing biomedical studies supported by the National Heart, Lung, and Blood Institute (NHLBI). Recent studies identified by the NHLBI demonstrate the occurrence of mucus-related morphological changes in mild asthma, as well as a clinical correlation between mucus hypersecretion and asthma symptoms. There is also extensive data available indicating that goblet cell hyperplasia, increased goblet cell counts, increased levels of mucin, and excessive production of mucus regularly occur in mild asthmatics.

DMD also refers to comments submitted to the FDA docket by Bayer HealthCare (November 2, 2005) which provide additional evidence that guaifenesin provides significant clinical benefits for patients with bronchial asthma when used in combination with a bronchodilator as opposed to a bronchodilator alone. Their conclusion was that the benefit/risk ratio for the OTC combination exceeds that for the OTC bronchodilator as a single ingredient.

Additionally, DMD would like to further discuss the following topics as they relate to safety and accessibility of OTC bronchodialator products if the proposed rule is adopted.

Safety

Guaifenesin/ephedrine combination drug products are safe for use in treating mild asthma and in loosening phlegm, as evidenced by their long use for those indications, wide acceptance from the public having mild asthma, as well as the extensive body of scientific data and clinical experience supporting their use separately and together in a wide range of products for OTC indications. DMD is not aware of widespread reports that the combination of ephedrine and guaifenesin is either unsafe or ineffective for the

treatment of mild asthma in the 30 some years in existence. Moreover, FDA has raised no questions nor has it provided any new evidence in its proposed rule regarding the safety and effectiveness of these individual active ingredients for use in the treatment of mild asthma whose symptoms include shortness of breath, tightness of chest and wheezing due to bronchial asthma or for the loosening of phlegm whose symptoms include phlegm (mucus) in the bronchial tubes and unproductive coughs.

FDA's speculation in the Federal Register Notice that guaifenesin could potentially contribute to harmful mucus plugs has not been supported by scientific or clinical evidence. There is scientific rationale for including expectorant therapy in the treatment of mild asthma. As recognized in FDA's Notice, mucus is among the multiple factors that contribute to inflammation and airway obstruction in chronic asthma.

Accessibility

Guaifenesin/ephedrine combination products offer important benefits to patients compared to the cost and inconvenience of buying and using two separate single-ingredient products, especially when one of those two products may be impossible to locate. In particular, we believe that DEA restrictions and retail licensing requirements on OTC single-ingredient ephedrine products create far more than a "minor inconvenience," as described by FDA in its proposal. In addition, at least 34 state laws enacted since March 2004 further restrict the ability of retailers and distributors to carry and sell single ingredient ephedrine. These laws include the classification of single ingredient DEA list 1 chemical products as prescription and/or controlled substance to be carried only by pharmacies, regardless of package size or transaction amount. Presently, single ingredient ephedrine products are not widely available, if available at all.

DEA currently requires registration for all manufacturers, distributors, importers and exporters of list 1 chemicals and registration of retailers that sell single ingredient ephedrine OTC products. The cost for DEA retail registration is currently $255 and the cost for renewal is $116. The regulatory burden and cost to retailers to carry single ingredient ephedrine products would outweigh the advantages of marketing these products. A recent Notice of Proposed Rulemaking by DEA to substantially raise these fees to $1,193 (both for registration and annual renewal) further supports this point. (See 70 Fed. Reg. 69474, November 16, 2005)

Asthma is a serious and rapidly growing public health problem, which disproportionately affects lower-income families, African Americans, and Hispanic Americans. (See U.S. Environmental Protection Agency, Asthma Facts (May 2005)). As a practical matter, the added cost and difficulty of consulting a doctor and/or locating and obtaining an OTC single-ingredient ephedrine product from "behind the counter" at a DEA-compliant outlet may effectively create a hardship for patients who now use and benefit from ephedrine/ guaifenesin combination products.

Conclusion

DMD respectfully requests that FDA duly consider these comments and the comments referenced herein and withdraw its proposed amendment to reclassify the combination of ephedrine and guaifenesin from class I (safe and effective for OTC use) to class II (not generally recognized as safe and effective for OTC use). DMD also believes ACRC is prepared to conduct additional research to demonstrate the existence of a meaningful target population and to further support the rationality, safety, and effectiveness of ephedrine/guaifenesin products.

Respectfully yours,

David Riddle

David Riddle
Compliance Officer
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